

**MOORE DODSON & RUSSELL, P.C.**

ATTORNEYS AT LAW

Physical: 5035 Norre Gade, Suite 201, St. Thomas, VI 00802-6734

Mailing: Post Office Box 310, St. Thomas, V.I. 00804-0310

Treston E. Moore  
J. Daryl Dodson  
Charles S. Russell, Jr.  
Kanaan L. Wilhite

Telephone (340) 777-5490  
Facsimile (340) 777-5498

tresmoore@aol.com  
daryl@mdrvi.com  
steve@mdrvi.com  
kanaan@mdrvi.com

February 19, 2015

FOIA Officer  
U.S. Environmental Protection Agency  
Region 2  
290 Broadway, 26<sup>th</sup> Floor  
New York, NY 10007-1866

*CSPD/or<sub>2</sub>A*  
*compared file*

2015 MAR -4 PM 2:21



USEPA - REG2  
PAD - FOIA OFFICE

Re: Sprat Bay Homeowners Association, Inc.  
Our File No. 1088

Dear Ladies and Gentlemen:

Pursuant to the U.S. Freedom of Information Act, (5 U.S.C. §552 *et seq.*), and the regulations of the U.S. Environmental Protection Agency ("EPA") implementing this act (40 C.F.R. § 2.100 *et seq.*), and on behalf of our client the Sprat Bay Homeowners Association, Inc. ("SBHOA"), we make the following request for copies of records.

By letters dated May 19, 2014 and June 13, 2014 (the "Letters," attached as Exhibit A), the EPA recommended denial of certain application (the "Application") for a dock permit filed by SBHOA with the U.S. Army Corps of Engineers.

We request copies of all records related to the Application and the Letters, including but not limited to all communications with private citizens, governmental agencies or officials, or any other person or entity, without limitation, regarding the Application. This request extends to emails, text messages, or other electronic communications, as well as all letters or other written communications. We are particularly interested in seeing any letters written by SBHOA's neighbors objecting to this proposal.

Without limiting the scope of this request, we note that this request extends to all communications to or from any officers, agents, or employees of the EPA, including both internal, intra-agency communications, and communications to or from other agencies.

Please communicate directly with the undersigned if there are any questions that need to be answered or clarifications that need to be made. We look forward to your response.

Sincerely yours,

*[Signature]*  
Daryl Dodson



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

**JUN 13 2014**

Colonel Alan M. Dodd  
District Commander  
U.S. Army Corps of Engineers  
Jacksonville District  
P.O. Box 4970  
Jacksonville, FL 32232-0019

Dear Colonel Dodd:

This is in further reference to Public Notice No. SAJ-2002-04263 by Mr. George Stricker on behalf of Sprat Bay Estate Homeowners Association. In my previous letter of May 19, 2014, I stated the Environmental Protection Agency's (EPA's) opposition to the issuance of a permit for the expansion of an existing docking facility and the construction of boat ramp on the western side of Water Island, St. Thomas, U.S. Virgin Islands. This letter provides further justification on EPA's position, as required under Part IV, Paragraph 3(b), of the Memorandum of Agreement between our two agencies.

The area to be impacted by the proposed dock expansion has dense seagrass beds. As stated in the public notice issued for the project, the immediate sea bottom area at the end of the existing dock has a large depression that has been denuded of seagrass, probably due to propeller action dredging from boating activities. While the applicant is proposing to expand the dock over the existing depression to avoid the seagrass area, EPA believes that boating activities at the end of the dock are likely to result in the expansion of the propeller dredged area. In addition, the increased dock size to provide each homeowner with an individual boat slip, as well as the availability of a boat ramp are likely to increase boating activity, thus expanding the effect of propellers over seagrass and significantly increasing the size of the denuded area. While the public notice summarized the applicant's willingness to mitigate for impacts to the seagrass meadows through debris cleanup and seagrass transplant activities, we believe that the applicant has not provided adequate justification on the need to expand the dock, other than to provide a slip for each individual homeowner. EPA believes that alternatives, such as effective management of the existing facilities to ensure equal access to all homeowners, plus the placement of mooring buoys over deeper water, may provide access and organize boaters with less environmental impacts. If the applicant successfully demonstrates a need to expand the existing dock, and impacts to sea grasses are non-avoidable, EPA expects to receive a detailed mitigation plan for those impacts, including the type and amount of debris to be removed, detailed debris removal and seagrass transplant methodology, measures to control turbidity and follow-up/evaluation criteria, expected seagrass transplant survival rates, as well as other information required to determine the appropriateness of the mitigation proposal.

As stated in my previous letter, the seagrass beds in this area are aquatic resources of national importance as described in the revised Clean Water Act Section 404(q) Memorandum of Agreement signed by our two agencies on August 11, 1992. Seagrass meadows are one of the most productive ecosystems in the biosphere, absorbing and providing nutrients for other species, stabilizing sediments, generating high amounts of oxygen, and sequestering atmospheric carbon. They are also feeding grounds for species, such as the endangered green sea turtle and the manatee, while the decaying leaves feed organisms that thrive on decaying organic matter. In addition, seagrass meadows provide habitat for

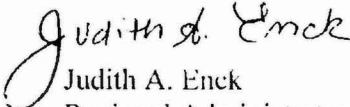


many types of fish, mollusks, arthropods, and sponges, among other species. They also have an important role in shoreline stabilization and storm buffering. EPA is concerned that the proposed dock expansion may result in unnecessary, avoidable impacts to this special aquatic site, contributing to the degradation of water quality in the area.

Pursuant to Part IV, Paragraph 3(b), of the Clean Water Act Section 404(q) Memorandum of Agreement signed by our two agencies on August 11, 1992, and based on our review of the available information, EPA believes that the proposed dock expansion project may result in substantial and unacceptable impacts to an aquatic resource of national importance. Therefore, we continue to recommend the denial of the permit requested.

If you have any questions regarding this matter, please contact me at (212) 637-5000, or have your staff contact Mr. José C. Font, Director of EPA's Caribbean Environmental Protection Division, at (787) 977-5870.

Sincerely,

  
Judith A. Enck  
Regional Administrator

cc: U.S. Army Corps of Engineers, San Juan, PR  
U.S. Fish and Wildlife Service, Boqueron, PR  
National Marine Fisheries Service, St. Petersburg, FL





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2  
290 BROADWAY,  
NEW YORK, NY 10007-1866

**MAY 19 2014**

Colonel Alan M. Dodd  
District Commander  
U.S. Army Corps of Engineers  
Jacksonville District  
P.O. Box 4970  
Jacksonville, FL 32232-0019

Dear Colonel Dodd:

This is in regards to Public Notice No. SAJ-2002-04263 by Mr. George Stricker on behalf of Sprat Bay Estate Homeowners Association. The applicant has requested authorization for the expansion of an existing docking facility with the addition of 1,092 square feet of fixed concrete and fiberglass panel docking area. In addition, the applicant proposes the construction of an 800 square feet cast-in-place boat ramp in the immediate vicinity of the existing dock. The proposed project would occur on the western side of Water Island, St. Thomas, U.S. Virgin Islands. According to the information presented by the applicant, the purpose of this project is to provide each resident of the Sprat Bay Estate with an individual boat slip.

Based upon our review of the information contained in the Public Notice, it is the Environmental Protection Agency's (EPA) opinion that the proposed project is likely to adversely impact the aquatic resources of the area. Therefore, EPA objects to the project as proposed and recommends that the U.S. Army Corps of Engineers (Corps) deny the applicant the permit for which he has applied.

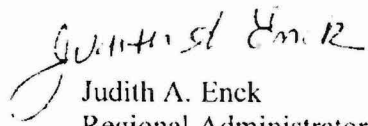
Specifically, the applicant has failed to demonstrate that the impacts of the proposed activities have been reduced to the greatest extent possible. The immediate area where the proposed pier expansion and boat ramp construction have been proposed are colonized with dense seagrass beds. As stated in the public notice, the immediate area offshore of the existing dock has a large depression that has been denuded of seagrass. Such depression is likely to be the result of prop wash dredging caused by boating activities. The applicant is proposing to expand the dock over the depression, possibly expanding the impacts over the densely colonized seagrass beds. While the applicant has proposed mitigation in the form of a debris cleanup from the seagrass meadows surrounding the site, and the transplant of seagrass from the impact area to recolonize areas where debris has been removed, additional details regarding the amount and type of debris to be removed, the debris removal and transplant methods, measures to control turbidity and follow-up/evaluation criteria, among other information, is necessary to determine the appropriateness of such proposal.

Furthermore, EPA believes that the seagrass beds in this area are aquatic resources of national importance as described in the revised Clean Water Act Section 404(q) Memorandum of Agreement signed by our two agencies on August 11, 1992. Wetlands and shallow water environments such as those which would be impacted by this project perform important functions including storm buffering, nutrient source and wildlife habitat. EPA is concerned that the proposed dock expansion, which will essentially turn the existing facility into a small marina, may significantly impact the seagrass meadows and contribute to the degradation of water quality in the area.

Pursuant to Part IV, Paragraph 3(a), of the Clean Water Act Section 404(q) Memorandum of Agreement signed by our two agencies on August 11, 1992, and based on our review of the available information, I am notifying you that we believe that the proposed project may result in substantial and unacceptable impacts to an aquatic resource of national importance. Therefore, we recommend the denial of the permit requested. In accordance with Part IV, Paragraph 3(b), of the Memorandum of Agreement, we will advise you on the justification for EPA's position on this project within 25 calendar days after the end of the comment period of the Public Notice.

If you have any questions regarding this matter, please contact me at (212) 637-5000, or have your staff contact Mr. José C. Font, Director of EPA's Caribbean Environmental Protection Division, at (787) 977-5870.

Sincerely,

  
Judith A. Enck  
Regional Administrator

cc: U.S. Army Corps of Engineers, San Juan, PR  
U.S. Fish and Wildlife Service, Boqueron, PR  
National Marine Fisheries Service, St. Petersburg, FL